

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

_____)	
KRISTIE GUIDRY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-0413
)	
WENDY CLARE t/a ARA,)	
)	
Defendant.)	
_____)	

ORDER

This matter comes before the Court on Defendant' s Motion to Dismiss. The motion alleges that the Court should dismiss Plaintiff's Complaint pursuant to either Rule 12(b)(5), (6), or (7). Fed. R. Civ. P. 12.

The Court finds that Plaintiff's Summons and Complaint was signed by the clerk and returned to Plaintiff for service on Defendant on April 20, 2005. See Fed. R. Civ. P. 4(b). Plaintiff had 120 days, or until August 10, 2005, to properly serve Defendant pursuant to Rule 4. Fed. R. Civ. P. 4(m). Plaintiff failed to make a timely motion to extend the length of time for service of the Complaint before August 10, 2005. Plaintiff caused Alias Summons to be issued from the clerk's office on September 16, 2005, over thirty days after the 120 day time limit in Rule 4(m). Plaintiff has not shown good cause as

to why she failed to serve the Summons and Complaint on Defendant within the original 120 day time limit in Rule 4(m). See Mendez v. Elliot, 45 F.3d 75, 79-80 (4th Cir. 1995). Thus, it is hereby

ORDERED that Defendant' s Motion to Dismiss is GRANTED and this case is dismissed without prejudice.

/s/

CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
November 23, 2005